

## JUDGE PARKER'S ADDRESS

At Esopus, N. Y., August 10, 1904

In Response to the Committee Formally Notifying Him of His Nomination for the Presidency

Mr. Chairman and Gentlemen of the Committee:

I have resigned the office of chief judge of the court of appeals of this state in order that I may accept the responsibility that the great convention you represent has put upon me, without possible prejudice to the court to which I had the honor to belong, or to the eminent members of the judiciary of this state, of whom I may now say as a private citizen I am justly proud.

At the very threshold of this response and before dealing with other subjects, I must, in justice to myself and to relieve my sense of gratitude, express my profound appreciation of the confidence reposed in me by the convention. After nominating me and subsequently receiving a communication declaring that I regarded the gold standard as firmly and irrevocably established, a matter concerning which I felt it incumbent upon me to make known my attitude so that hereafter no man could justly say that his support had been secured through indirection or mistake, the convention reiterated its determination that I should be the standard bearer of the party in the present contest. This mark of trust and confidence I shall ever esteem as the highest honor that could be conferred upon me—an honor that, whatever may be the fate of the campaign, the future can in no degree lessen or impair.

The admirable platform upon which the party appeals to the country for its confidence and support clearly states the principles which were so well condensed in the first inaugural address of President Jefferson, and points out with force and directness the course to be pursued through their proper application in order to insure needed reforms in both the legislative and administrative departments of the government. While unhesitating in its promise to correct abuses and to right wrongs wherever they appear or however caused; to investigate the several administrative departments of the government, the conduct of whose officials has created scandals, and to punish those who have been guilty of a breach of their trust; to oppose the granting of special privileges by which the few may profit at the expense of the many; to practice economy in the expenditure of the moneys of the people, and to that end to return once more to the methods of the founders of the republic by observing in disbursing the public funds the care and caution a prudent individual observes with respect to his own; still the spirit of the platform assures conservative, instead of rash action; the protection of the innocent as well as the punishment of the guilty; the encouragement of industry, economy and thrift; the protection of property and a guarantee of the enforcement for the benefit of all of man's inalienable rights, among which, as said in the Declaration of Independence, are "life, liberty and the pursuit of happiness." Liberty, as understood in this country, means not only the right of freedom from actual servitude, imprisonment or restraint, but the right of one to use his faculties in all lawful ways, to live and work where he will and to pursue any lawful trade or business. These essential rights of life, liberty and property are not only guaranteed to the citizen by the constitution of each of the several states, but the states are by the fourteenth amendment to the constitution of the United States forbidden to deprive any person of any one of them without due process of law.

Occasionally, by reason of unnecessary or impatient agitation for reforms, or because the limitations placed upon the departments of government by the constitution are disregarded by officials desiring to accomplish that which to them seems good, whether the power exists in them or not, it becomes desirable to call attention to the fact that the people, in whom all power resides, have seen fit, through the medium of the constitution, to limit the governmental powers conferred and to say to departments created by it: "Thus far shalt thou go and no farther." To secure the ends sought the people have by the constitution separated and distributed among the three departments of government—the executive, legislative and judicial—certain powers, and it is the duty of those administering each department so to act as to preserve, rather than to destroy, the potency of the coordinate branches of the government, and thus secure the exercise of all the powers conferred by the people.

Thomas Jefferson, in a letter to William C. Jarvis, touching the perpetuity of our institutions, written many years after he had retired to private life, said: "If the three powers of our government maintain their mutual independence of each other, it may last long, but not so if either can assume the authority of the other." It must be confessed that in the course of our history executives have employed powers not belonging to them; statutes have been passed that were expressly forbidden by the constitution and statutes have been set aside as unconstitutional when it was difficult to point out the provisions said to be offended against in their enactment; all this has been done with a good purpose, no doubt, but in disregard, nevertheless, of the fact that ours is a government of laws, not of men, deriving its "just powers from the consent of the governed." If we would have our government continue during the ages to come, for the benefit of those who shall succeed us, we must ever be on our guard against the

danger of usurpation of that authority which resides in the whole people, whether the usurpation be by officials representing one of the three great departments of government, or by a body of men acting without a commission from the people.

Impatient of the restraints of law, as well as of its delays, is becoming more and more manifest from day to day. Within the past few years many instances have been brought to our attention, where in different parts of our beloved country supposed criminals have been seized and punished by a mob, notwithstanding the fact that the constitution of each state guarantees to every person within its jurisdiction that his life, his liberty or his property shall not be taken from him without due process of law.

In a struggle between employers and employees, dynamite is said to have been used by the latter, resulting in the loss of life and the destruction of property. The perpetrators of this offense against the laws of God and man, and all others engaged in the conspiracy with them, should, after due trial and conviction, have had meted out to them the most rigorous punishment known to the law. This crime, added perhaps to others, led to the formation of a committee of citizens that, with the support of the military authority, deports from the state, without trial, persons suspected of belonging to the organization of which the perpetrators of the dynamite outrages were supposed to be members. In both cases the reign of law gave way to the reign of force. These illustrations present some evidence of the failure of government to protect the citizen and his property, which not only justified the action of your convention in this regard, but made it its duty to call attention to the fact that constitutional guarantees are violated whenever any citizen is denied the right to labor, to acquire and to enjoy property, or to reside where his interests or inclination may determine; and the fulfillment of the assurance to rebuke and punish all denials of these rights, whether brought about by individuals or government agencies, should be enforced by every official and supported by every citizen. The essence of good government lies in strict observance of constitutional limitations, enforcement of law and order and rugged opposition to all encroachment upon the sovereignty of the people.

The foregoing suggestions but emphasize the distinction which exists between our own and many other forms of government. It has been well said, in substance, that there are but two powers in government, one the power of the sword, sustained by the hand that wields it, and the other the power of the law, sustained by an enlightened public sentiment. The difference in these powers is the difference between a republic—such as ours, based on law and a written constitution, supported by intelligence, virtue and patriotism—and a monarchy—sustained by force exerted by an individual, uncontrolled by laws other than those made or sanctioned by him; one represents constitutionalism, the other imperialism.

The present tariff law is unjust in its operation, excessive in many of its rates and so framed in particular instances as to exact inordinate profits from the people. So well understood has this view become that many prominent members of the republican party, and at least two of its state conventions, have dared to voice the general sentiment on that subject. That party seems, however, to be collectively able to harmonize only upon a plank that admits that revision may from time to time be necessary, but it is so phrased that it is expected to be satisfactory to those in favor of an increase of duty, to those who favor a reduction thereof, and to those opposed to any change whatever.

Judged by the record of performance, rather than that of promise, on the part of that party in the past, it would seem as if the outcome, in the event of its success, would be to gratify the latter class. With absolute control of both the legislative and executive departments of the government since March 4, 1897, there has been neither reduction nor an attempt at reduction in tariff duties. It is not unreasonable to assume, in the light of that record, that a future congress of that party will not undertake a revision of the tariff downward in the event that it shall receive an endorsement of its past course on that subject by the people. It is a fact and should be frankly conceded that should our party be successful in the coming contest we cannot hope to secure a majority in the senate during the next four years, and hence we shall be unable to secure any modification in the tariff save that to which the republican majority in the senate may consent. While, therefore, we are unable to give assurances of relief to the people from such excessive duties as burden them, it is due to them that we should state our position to be in favor of a reasonable reduction of the tariff; that we believe that it is demanded by the best interests of both manufacturer and consumer, and that a wise and beneficent revision of the tariff can be accomplished as soon as both branches of congress and an executive in favor of

it are elected, without creating that sense of uncertainty and instability that has on other occasions manifested itself. This can be achieved by providing that such a reasonable period shall intervene between the date of the enactment of the statute making a revision and the date of its enforcement, as shall be deemed sufficient for the industry or business affected by such revision to adjust itself to the changes and new conditions imposed. So confident am I in the belief that the demand of the people for a reform of the tariff is just, that I indulge the hope that should a democratic house of representatives and a democratic executive be chosen by the people, even a republican senate may heed the warning and consent to give at least some measure of relief to the people.

The combinations, popularly called trusts, which aim to secure a monopoly of trade in the necessities of life as well as in those things that are employed upon the farm, in the factory and in many other fields of industry, have been encouraged and stimulated by excessive tariff duties. These operate to furnish a substantial market in the necessities of 80,000,000 of people, by practically excluding competition. With so large a market and highly remunerative prices continuing long after the line of possible competition would naturally be reached, the temptation of all engaged in the same business to combine so as to prevent competition at home and a resulting reduction of prices, has proved irresistible in a number of cases. All men must agree that the net result of enacting laws that foster such inequitable conditions, is most unfortunate for the people as a whole, and it would seem as if all ought to agree that the effective remedy would be to appropriately modify the offending law. The growth of monopoly, of which complaint is justly made, cannot be laid at the doors of the courts of this country. The decisions of the supreme court of the United States, the court of appeals of this state and the courts of last resort in many other states, warrant the assertion that the common law as developed affords a complete legal remedy against monopolies. The fact that they have multiplied in number and increased in power has been due, not to the failure of the courts to apply the law when properly moved by administrative officials or private individuals, but to the failure of officials charged with the duty of enforcing the law to take the necessary procedure to procure the judgments of the courts in the appropriate jurisdiction, coupled with the fact that the legislative departments of some of our state governments, as well as congress in the manner already referred to, have, by legislation, encouraged their propagation. What is needed—in addition to the passage of a statute revising the tariff duties to a reasonable basis—is not so much other and different laws, as officials having both the disposition and the courage to enforce existing law. While this is my view, of the scope of the common law, if it should be made to appear that it is a mistaken one, then I favor such further legislation within constitutional limitations as will give the people a just and full measure of protection.

It is difficult to understand how any citizen of the United States, much less a descendant of revolutionary stock, can tolerate the thought of permanently denying the right of self-government to the Filipinos. Can we hope to instill into the minds of our descendants reverence and devotion for a government by the people, while denying ultimately that right to the inhabitants of distant countries, whose territory we have acquired either by purchase or by force? Can we say to the Filipinos: "Your lives, your liberty and your property may be taken from you without due process of law for all time," and expect we will long glory in that feature of Magna Charta, which has become incorporated, in substance and effect, into the constitution of every state, as well as into the fourteenth amendment of the constitution of the United States? Can we hope for the respect of the civilized world, while proudly guaranteeing to every citizen of the United States that no law shall be made or enforced which shall abridge the privileges or immunities of citizens of the United States, or deny to any person the equal protection of the laws, and at the same time not only deny similar rights to the inhabitants of the Philippines, but take away from them the right of trial by jury, and place their lives and the disposition of their property in the keeping of those whom we send to them to be their governors? We shall certainly rue it as a nation if we make any such attempt. Viewing the question even from the standpoint of national selfishness, there is no prospect that the \$20,000,000 expended in the purchase of the islands and the \$650,000,000 said to have been since disbursed will ever come back to us. The accident of war brought the Philippines into our possession and we are not at liberty to disregard the responsibility which thus came to us, but that responsibility will be best subverted by preparing the islanders as rapidly as possible for self-government and giving to them the assurances that it will come as soon as they are reasonably prepared for it. There need be no fear that the assertion so often made of late, that we have now become a world power, will then be without support. Ours is a world power, and as such it must be maintained, but I deny that it is at all recently that the United States has attained that eminence. Our country became a world power over a century ago, when, having thrown off foreign domination, the people established a free government, the source of whose authority sprung, and was continuously to proceed, from the will of the people themselves. It grew as a world power as its sturdy citizens, to whose natural increase were added immigrants from the old world seeking to obtain here the liberty and prosperity denied them in their own countries, spread over the face of the land, reduced the prairies and forests to cultivation, built cities, construct-

ed highways and railroads, till now a nation which at the formation of the government numbered only 3,000,000 in population, has become 80,000,000, and from ocean to ocean and the lakes to the gulf, the country is the abode of a free and prosperous people, advanced in the highest degree in the learning and arts of civilization. It is the liberty, the advancement and the prosperity of its citizens, not any career of conquest, that make the country a world power. This condition we owe to the bounty of providence, unfolded in the great natural resources of the country, to the wisdom of our fathers manifested in the form of government established by them, to the energy, industry, moral character and law-abiding spirit of the people themselves.

We are not a military people, bent on conquest, or engaged in extending our domains in foreign lands, or desirous of securing natural advantages, however great, by force; but a people loving peace, not only for ourselves, but for all the nations of the earth.

The display of great military armaments may please the eye and, for the moment, excite the pride of the citizen, but it cannot bring to the country the brains, brawn and muscle of a single immigrant, nor induce the investment here of a dollar of capital. Of course such armament as may be necessary for the security of the country and the protection of the rights of its citizens, at home or abroad, must be maintained. Any other course would be not only false economy, but pusillanimous. I protest, however, against the feeling, now far too prevalent, that, by reason of the commanding position we have assumed in the world, we must take part in the disputes and broils of foreign countries; and that because we have grown great we should intervene in every important question that arises in other parts of the world. I also protest against the erection of any such military establishment as would be required to maintain the country in that attitude. We should confine our international activities solely to matters in which the rights of the country or of our citizens are directly involved. That is not a situation of isolation, but of independence.

The government of the United States was organized solely for the people of the United States. While it was contemplated that this country should become a refuge for the oppressed of every land, who might be fit to discharge the duties of our citizenship, and while we have always sympathized with the people of every nation in their struggles for self-government, the government was not created for a career of political or civilizing evangelization in foreign countries or among alien races by intervention in their affairs. The most efficient work we can do in uplifting the people of other countries is by the presentation of a happy, prosperous, self-governing nation as an ideal to be emulated, a model to be followed. The general occupation of our citizens in the arts of peace, or the absence of large military armaments, tends to impair neither patriotism nor physical courage, and for the truth of this I refer the young men of to-day to the history of the civil war. For 50 years, with the exception of the war with Mexico, this country had been at peace, with a standing army most of the time of less than 10,000 men. He who thinks that the nation had grown effeminate during that period should read the casualty rolls of the armies on either side at Shiloh, Antietam, Fredericksburg and Gettysburg, at Stone River, and Chickamauga. I would be the last man to pluck a single laurel from the crown of any one of the military heroes to whom this country owes so much, but I insist that their most heroic deeds proceeded infinitely more from devotion to the country, than from martial spirit.

As I have already proceeded at too great length, other questions suggested in the platform must await my letter of acceptance.

Mr. Chairman: In most graceful speech you have reminded me of the great responsibility, as well as the great honor, of the nomination bestowed upon me by the convention you represent this day. Be assured that both are appreciated—so keenly appreciated that I am humbled in their presence.

I accept, gentlemen of the committee, the nomination, and if the action of the convention shall be indorsed by an election by the people, I will, God helping me, give to the discharge of the duties of that exalted office the best service of which I am capable and at the end of the term retire to private life. I shall not be a candidate for, nor shall I accept, a renomination. Several reasons might be advanced for this position, but the controlling one with me is that I am fully persuaded that no incumbent of that office should ever be placed in a situation of possible temptation to consider what the effect of action taken by him in an administrative matter of great importance might have upon his political fortunes. Questions of momentous consequence to all the people have been in the past and will be in the future presented to the president for determination, and in approaching their consideration, as well as in weighing the facts and the arguments bearing upon them, he should be unembarrassed by any possible thought of the influence his decision may have upon anything whatever that may affect him personally. I make this statement, not in criticism of any of our presidents from Washington down who have either held the office for two terms or sought to succeed themselves; for strong arguments can be advanced in support of the reelection of a president. It is simply my judgment that the interests of this country are now so vast and the questions presented are frequently of such overpowering magnitude to the people that it is indispensable to the maintenance of a befitting attitude before the people, not only that the chief magistrate should be independent but that that independence should be known of all men.



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